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SB 693

FILED

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WEST VIRGINIA  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**  
Regular Session, 2006

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**ENROLLED**

SENATE BILL NO. 693

(By Senator Tomblin, Mr. President )

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PASSED March 10, 2006

In Effect from Passage

FILED

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OFFICE WEST VIRGINIA  
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## Senate Bill No. 693

(BY SENATOR TOMBLIN, MR. PRESIDENT)

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[Passed March 10, 2006; in effect from passage.]

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AN ACT to amend and reenact §14-2-18, §14-2-19 and §14-2-20 of the Code of West Virginia, 1931, as amended, all relating to the Court of Claims; and requiring direction of the Joint Committee on Government and Finance in certain circumstances.

*Be it enacted by the Legislature of West Virginia:*

That §14-2-18, §14-2-19 and §14-2-20 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

**ARTICLE 2. CLAIMS AGAINST THE STATE.**

**§14-2-18. Advisory determination procedure.**

- 1 The Governor or the head of a state agency may refer to
- 2 the court for an advisory determination the question of the
- 3 legal or equitable status, or both, of a claim against the
- 4 state or a state agency. This procedure shall apply only to

5 such claims as are within the jurisdiction of the court. The  
6 procedure shall be substantially as follows:

7 1. There shall be filed with the clerk the record of the  
8 claim, including a full statement of the facts, the conten-  
9 tions of the claimant and such other materials as the rules  
10 of the court may require. The record shall submit specific  
11 questions for the court's consideration.

12 2. The clerk shall examine the record submitted. If he  
13 or she finds that it is adequate under the rules, he or she  
14 shall give a copy of all materials submitted to the Joint  
15 Committee on Government and Finance. If the Joint  
16 Committee on Government and Finance shall so direct, the  
17 clerk shall place the claim on a special docket. If the clerk  
18 finds the record inadequate, he or she shall refer it back to  
19 the officer submitting it with the request that the neces-  
20 sary additions or changes be made.

21 3. When a claim is reached on the special docket, the  
22 court shall prepare a brief opinion for the information and  
23 guidance of the officer. The claim shall be considered  
24 informally and without hearing. A claimant shall not be  
25 entitled to appear in connection with the consideration of  
26 the claim.

27 4. The opinion shall be filed with the clerk. A copy shall  
28 be transmitted to the officer who referred the claim.

29 An advisory determination shall not bar the subsequent  
30 consideration of the same claim if properly submitted by,  
31 or on behalf of, the claimant. Such subsequent consider-  
32 ation, if undertaken, shall be de novo.

#### **§14-2-19. Claims under existing appropriations.**

1 A claim arising under an appropriation made by the  
2 Legislature during the fiscal year to which the appropria-  
3 tion applies, and falling within the jurisdiction of the  
4 court, may be submitted by:

5 1. A claimant whose claim has been rejected by the state  
6 agency concerned or by the State Auditor.

7 2. The head of the state agency concerned in order to  
8 obtain a determination of the matters in issue.

9 3. The State Auditor in order to obtain a full hearing  
10 and consideration of the merits.

11 When such submittal is made, the clerk shall give a copy  
12 of the submittal to the Joint Committee on Government  
13 and Finance. If the Joint Committee on Government and  
14 Finance shall so direct, the clerk shall place such claim on  
15 its docket. Upon its placement on the docket, the regular  
16 procedure, so far as applicable, shall govern the consider-  
17 ation of the claim by the court. If the court finds that the  
18 claimant should be paid, it shall certify the approved claim  
19 and award to the head of the appropriate state agency, the  
20 State Auditor and to the Governor. The Governor may  
21 thereupon instruct the Auditor to issue his or her warrant  
22 in payment of the award and to charge the amount thereof  
23 to the proper appropriation. The Auditor shall forthwith  
24 notify the state agency that the claim has been paid. Such  
25 an expenditure shall not be subject to further review by  
26 the Auditor upon any matter determined and certified by  
27 the court.

**§14-2-20. Claims under special appropriations.**

1 Whenever the Legislature makes an appropriation for  
2 the payment of claims against the state, then accrued or  
3 arising during the ensuing fiscal year, the determination of  
4 claims and the payment thereof may be made in accor-  
5 dance with this section. However, this section shall apply  
6 only if the Legislature in making its appropriation specifi-  
7 cally so provides and only after specific direction to hear  
8 the claim is given by the Joint Committee on Government  
9 and Finance.

10 The claim shall be considered and determined by the  
11 regular or shortened procedure, as the case may be, and

12 the amount of the award shall be fixed by the court. The  
13 clerk shall certify each approved claim and award, and  
14 requisition relating thereto, to the Auditor. The Auditor  
15 thereupon shall issue his or her warrant to the Treasurer  
16 in favor of the claimant. The Auditor shall issue his or her  
17 warrant without further examination or review of the  
18 claim except for the question of a sufficient unexpended  
19 balance in the appropriation.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*Chandy White*  
.....  
Chairman Senate Committee

*R. Beer*  
.....  
Chairman House Committee

Originated in the Senate.

In effect from passage.

*Darrell Holmes*  
.....  
Clerk of the Senate

*Bruce M. Bay*  
.....  
Clerk of the House of Delegates

*Carl Ray Tomblin*  
.....  
President of the Senate

*Robert J. ...*  
.....  
Speaker House of Delegates

The within *is approved* this the *31<sup>st</sup>*  
Day of *March*, 2006.  
*Paul M. Hancock*  
.....  
Governor

PRESENTED TO THE  
GOVERNOR

MAR 31 2006

Time 10:35 *AM*